



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2018-0211; FRL-9984-22-Region 7]**

**Air Plan Approval; Missouri; Regional Haze Plan and Prong 4**

**(Visibility) for the 2012 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, and 2008**

**Ozone NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking several final actions regarding the Missouri State Implementation Plan (SIP). Three SIP actions relate to how the state addresses transport as related to visibility impairment in Class 1 areas and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>), 2010 Nitrogen Dioxide (NO<sub>2</sub>), 2010 Sulfur Dioxide (SO<sub>2</sub>), and 2008 Ozone National Ambient Air Quality Standards (NAAQS): the EPA is approving the portion of the state's September 5, 2014 Five-year Progress Report for the State of Missouri Regional Haze Plan and a subsequently submitted letter dated July 31, 2017, which clarified that the state was changing from reliance on the Clean Air Interstate Rule (CAIR) to reliance on the Cross State Air Pollution Rule (CSAPR) for certain regional haze requirements; the EPA is converting its limited approval/limited disapproval of the state's Regional Haze Plan to a full approval; and the

EPA is approving the states' submissions addressing the Clean Air Act (CAA or the Act) provisions that prohibit emissions activity in one state from interfering with measures to protect visibility in another state (prong 4) of the state's infrastructure SIP submittals for the 2008 Ozone, the 2010 Nitrogen Dioxide (NO<sub>2</sub>), the 2010 Sulfur Dioxide (SO<sub>2</sub>), and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS. Finally, based on EPA's approval of the portion of the state's September 5, 2014, Five-year Progress Report that clarified that the state was changing from reliance on CAIR to reliance on CSAPR for certain regional haze requirements and conversion of its limited approval/limited disapproval of the state's Regional Haze Plan to a full approval, the EPA is withdrawing the June 7, 2012, Federal Implementation Plan (FIP) for regional haze.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No EPA-R07-OAR-2018-0211. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available

docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7016, or by email at [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA. This section provides additional information by addressing the following:

- I. Background Information
- II. Have the Requirements for Approval of the SIP Submittals Been Met?
  - a. 2008 Ozone NAAQS
  - b. 2010 NO<sub>2</sub> NAAQS
  - c. 2010 SO<sub>2</sub> NAAQS
  - d. 2012 PM<sub>2.5</sub> NAAQS
  - e. Regional Haze Five-year Progress Report
- III. The EPA’s Response to Comments
- IV. What Action is the EPA Taking?
- V. Statutory and Executive Order Reviews

## **I. Background Information**

On May 3, 2018, the EPA proposed to approve the state’s change from a reliance on CAIR to a reliance on CSAPR to meet certain Regional Haze planning obligations; to convert the EPA’s limited approval/limited disapproval of the state’s Regional Haze Plan to a full approval; to approve the prong 4 elements of the state’s 2008 Ozone, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub> and 2012 PM<sub>2.5</sub> NAAQS

infrastructure SIP submittals; and to remove EPA's existing regional haze FIP from 40 CFR 52.1339(c) and (d). See 83 FR 19479. The EPA received six sets of comments prior to the close of the comment period; all six sets of comments were not directly related to the action. The EPA's rationale for approving those SIP submissions, was provided in the proposal action and will not be restated here. See 83 FR 19479.

## **II. Have the Requirements for Approval of the SIP Submittals Been Met?**

### **a. 2008 Ozone NAAQS**

The state's submission met the public notice requirements for the Ozone infrastructure SIP submission in accordance with 40 CFR 51.102. The state held a public comment period from April 30, 2013, to June 6, 2013. The EPA provided comments on May 23, 2013, and was the only commenter. A public hearing was held on May 30, 2013. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V, for all elements except 110(a)(2)(D)(i)(I) - significant contribution to nonattainment (prong 1), interfering with maintenance of the NAAQS (prong 2). The EPA published a document in the **Federal Register**, "*Findings of Failure to Submit a Section 110 State Implementation Plan for Interstate Transport for the 2008 National Ambient Air Quality*

*Standards for Ozone*".<sup>1</sup> The state was included in this finding because it had not made a complete "good neighbor" SIP submittal to meet the prong 1 and 2 elements.

**b. 2010 NO<sub>2</sub> NAAQS**

The state's submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state held a public comment period from February 25, 2013, to April 4, 2013. The EPA provided comments to the state on April 3, 2013, and was the only commenter. A public hearing was held on March 28, 2013. The state revised its proposed SIP in response to the EPA's comments, and the state submitted the SIP to the EPA on April 30, 2013. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V.

**c. 2010 SO<sub>2</sub> NAAQS**

The state's submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state held a public comment period from April 30, 2013, to June 6, 2013. The EPA provided comments on May 23, 2013, and was the only commenter. A public hearing was held on May 30, 2013. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V, for all elements except prongs 1 and 2.

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<sup>1</sup> See 80 FR 39961 (August 12, 2015)

**d. 2012 PM<sub>2.5</sub> NAAQS**

The state's submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The state held a public comment period from July 27, 2015, to September 3, 2015. The state received no comments during the public comment period. A public hearing was held on August 27, 2015. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V.

**e. Regional Haze Five-year Progress Report**

The state's submission met the public notice requirements for a SIP submission in accordance with 40 CFR 51.102. The state held a public comment period from April 28, 2014, to June 5, 2014. The EPA provided comments on May 30, 2014. A public hearing was held on May 29, 2014. Revisions were made to the draft report in response to comments received. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V. On July 31, 2017, the state submitted a letter to EPA clarifying certain aspects of its Five-year Progress Report for regional haze. See 83 FR 19479.

**III. The EPA's Response to Comments.**

As previously noted, the EPA received six sets of comments prior to the close of the comment period; all six sets of comments were not directly related to the action and therefore not considered by the EPA to be significant or adverse to the

action being taken; therefore, the EPA is not providing responses here. No changes were made to the proposals in this final action after consideration of the comments received. All comments on the proposed action are available in the docket noted in this action.

#### **IV. What Action is the EPA Taking?**

As described above, the EPA is taking the following final actions: 1) approving the portion of the state's September 5, 2014 *Five-year Progress Report for the State of Missouri Regional Haze Plan* which, as clarified by the July 31, 2017 letter, identified the state's change from reliance on CAIR to a reliance on the CSAPR FIP for certain regional haze requirements; 2) converting the EPA's limited approval/limited disapproval of the state's Regional Haze Plan to a full approval; and 3) approving the state's infrastructure SIP submissions addressing the CAA prong 4 requirements for the 2008 Ozone, 2012 PM<sub>2.5</sub>, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. Based on EPA's approval of the portion of the state's September 5, 2014 Five-year Progress Report that clarified that the state was changing from reliance on CAIR to reliance on CSAPR for certain regional haze requirements and conversion of its limited approval/limited disapproval of the state's Regional Haze Plan to a full approval, the EPA is withdrawing the FIP from 40 CFR 52.1339(c) and (d) as noticed in the proposed regulatory text revisions.

## **V. Statutory and Executive Order Reviews**

### **A. Executive Orders 12866 and 13563: Regulatory Planning and Review**

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

### **B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs**

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

### **C. Paperwork Reduction Act**

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

### **D. Regulatory Flexibility Act (RFA)**

This action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

### **E. Unfunded Mandates Reform Act (UMRA)**

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action



does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. There are no Indian reservation lands in Missouri. Thus, Executive Order 13175 does not apply to this rule.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive

Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

L. Determination Under Section 307(d)

Pursuant to CAA section 307(d) (1) (B), this action is subject to the requirements of CAA section 307(d), as it revises a FIP under CAA section 110(c).

M. Congressional Review Act (CRA)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

N. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action

may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Regional haze, Visibility.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: September 13, 2018.

Andrew R. Wheeler,  
Acting Administrator.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 52 as follows:

**PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In §52.1320, the table in paragraph (e) is amended by:

- a. Revising entry (70); and
- b. Adding entry (74) in numerical order.

The revision and addition read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*

(e)\*\*\*

**EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS**

Name of nonregulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(70) State Implementation Plan (SIP) Revision for Regional Haze (2014 Five-year Progress Report)	Statewide	9/5/2014	8/1/2016, 81 FR 50353; [ <u>Insert date of publication in the Federal Register</u> ], [ <u>Insert Federal Register citation</u> ]	Missouri submitted a clarification letter to its Five-year Progress Report on July 31, 2017 that is part of this action. [EPA-R07-OAR-2015-0581; FRL-9949-68-Region 7]; [EPA-R07-OAR-2018-0211; FRL-9984-22-Region 7.]
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(74) Sections 110 (a) (2) Infrastructure Prong 4 Requirements for the 2008 Ozone, 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide, and the 2012 Fine Particulate Matter NAAQS.	Statewide	7/8/2013; 8/30/2013; 7/8/2013; 10/14/2015	[ <u>Insert date of publication in the Federal Register</u> ], [ <u>Insert Federal Register citation</u> ]	This action approves the following CAA elements: 110(a)(2)(D)(i)(I) - prong 4. [EPA-R07-OAR-2018-0211; FRL-9984-22-Region 7.]
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3. Amend §52.1339 by:

- a. Revising paragraph (a); and
- b. Removing paragraphs (c) through (e).

The revision reads as follows:

**§52.1339 Visibility protection.**

(a) The requirements of section 169A of the Clean Air Act are met because the plan includes measures for the protection visibility in mandatory Class I Federal areas. The Regional Haze Plan submitted by Missouri on August 5, 2009, and supplemented on January 30, 2012, in addition to the 5-year progress report submitted on September 5, 2014, and supplemented by state letter on July 31, 2017, contain fully approvable measures for meeting the requirements of the Regional Haze Rule.

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[FR Doc. 2018-20615 Filed: 9/21/2018 8:45 am; Publication Date: 9/24/2018]